Crl.Misc. No. 27726-M of 2006

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Present:- Mr.Kanwaljit Singh Aluwalia, Sr. Advocate with
Mr. JS Rattu, Advocate
for the petitioners.

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Learned Senior counsel for the petitioners contends that the main allegation in the complaint dated 20.12.2006 (Annexure P11) are against accused no.4 Sachin Shah (non-petitioner). It is submitted that a reading of the complaint would show that drafts for an amount of Rs.7.75 lacs were given to the said accused No.4. The said drafts it is submitted were never credited to the account of the petitioners. In fact one Vaibhav Ravindra Sohani opened an account with the Nagarik Sahakari Bank, Kasali Ali Branch, Bhiwandi, District Thane. The said Vaibhav Ravindra Sohani is not an authorised agent of the petitioners. This intimation was sent to the counsel for the respondent vide reply (Annexure P-10) The said bank has also lodged FIR against the person who opened the account. It is further submitted that even counsel for the petitioner sent reply dated 15.12.2006 (Annexure P8) to the legal notice (Annexure P7) of the petitioner in which also it was clearly stated that the petitioners have no dealing with Sachin Shah (accused no.4). Clause 22 of the prospectus (Annexure P6) has also been referred to which it is contended specifically envisages that the petitioner University has not authorised any individual agent or agency to deal with the admission in its constituent colleges and that it would not be responsible for any such activities of such individual agents/agencies. It is submitted that the respondent suppressed these facts while filing the complaint (Annexure P11) before the learned Judicial Magistrate Ist Class, Batala. It is further submitted that in terms of the

amended provisions of Section 202 Cr.P.C. the trial Magistrate is liable to hold an inquiry with respect to a matter beyond his jurisdiction. In fact in terms of the amended provisions of Section 202 Cr.P.C., the petitioners being residents of a place beyond the area of jurisdiction of the trial Court, the issuance of process was liable to be postponed and either an inquiry into the case was to be conducted by the Magistrate himself or a direction was liable to be issued to a police officer for investigation.

Notice of motion for 16.8.2007.

In the meantime further proceedings before the trial Court shall remain stayed.

**(S.S.SARON)**
**JUDGE**

May 3,2007
**Reema**